

House Bill 2942

Sponsored by Representatives GELSER, SPRENGER; Representatives BARKER, BERGER, BREWER, DOHERTY, KOTEK, TOMEI (at the request of Oregon Sexual Assault Task Force) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes issuance of protective order for certain persons who are victims of conduct constituting sex crime.

A BILL FOR AN ACT

1
2 Relating to protective orders for victims of sexual assault; creating new provisions; and amending
3 ORS 21.361, 36.185, 166.291 and 659A.270 and section 2, chapter 204, Oregon Laws 2005.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in sections 1 to 9 of this 2011 Act:**

6 (1) **"Family or household members," "interfere," "intimidate," "menace" and "molest"**
7 **have the meanings given those terms in ORS 107.705.**

8 (2) **"Sex crime" has the meaning given that term in ORS 181.594.**

9 **SECTION 2. (1) Any person who has been the victim of a sex crime within the preceding**
10 **180 days may petition the circuit court for relief under sections 1 to 9 of this 2011 Act if the**
11 **person and the respondent:**

12 (a) **Are at least 18 years of age; and**

13 (b) **Are not family or household members.**

14 (2) **The person may seek relief by filing a petition with the circuit court alleging that the**
15 **respondent subjected the person to conduct constituting a sex crime within the 180 days**
16 **preceding the filing of the petition. The petition must set forth sufficient facts to support the**
17 **allegation but need not demonstrate that the respondent has been charged with or convicted**
18 **of a sex crime. Statements in the petition must be made under oath or affirmation.**

19 (3) **The circuit court has jurisdiction over all proceedings under sections 1 to 9 of this**
20 **2011 Act.**

21 (4) **The petitioner has the burden of proving a claim under sections 1 to 9 of this 2011**
22 **Act by a preponderance of the evidence.**

23 (5) **A petition filed under sections 1 to 9 of this 2011 Act must disclose the existence of**
24 **any criminal proceedings related to the allegations.**

25 (6) **For the purpose of computing the 180-day period described in subsection (1) of this**
26 **section, any time during which the respondent is incarcerated or has a principal residence**
27 **more than 100 miles from the principal residence of the petitioner may not be counted as**
28 **part of the 180-day period.**

29 **SECTION 3. (1) When a person files a petition under section 2 of this 2011 Act, the court**
30 **shall hold an ex parte hearing in person or by telephone on the day the petition is filed or**
31 **on the following judicial day. Upon a showing that the respondent has subjected the**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 petitioner to conduct constituting a sex crime within 180 days preceding the filing of the
 2 petition, the court shall, if requested by the petitioner, order:

3 (a) That the respondent be restrained from entering, or attempting to enter, a reasonable
 4 area surrounding the petitioner's residence;

5 (b) That the respondent be restrained from intimidating, molesting, interfering with or
 6 menacing the petitioner, or attempting to intimidate, molest, interfere with or menace the
 7 petitioner;

8 (c) That the respondent be restrained from intimidating, molesting, interfering with or
 9 menacing any family or household members of the petitioner or attempting to intimidate,
 10 molest, interfere with or menace any family or household members of the petitioner;

11 (d) That the respondent be restrained from entering or attempting to enter on any
 12 premises and a reasonable area surrounding the premises when it appears to the court that
 13 the restraint is necessary to prevent the respondent from intimidating, molesting, interfer-
 14 ing with or menacing the petitioner or the petitioner's family and household members, except
 15 that a court may not restrain the respondent from entering or attempting to enter a sec-
 16 ondary or career school attended by the respondent;

17 (e) That the respondent have no contact with the petitioner in person, by telephone or
 18 by mail; or

19 (f) Other relief that the court considers necessary to provide for the safety and welfare
 20 of the petitioner and the petitioner's family and household members.

21 (2) The court's order under this section is effective for a period of one year or until the
 22 order is withdrawn or amended.

23 (3) If the respondent is restrained from entering or attempting to enter an area sur-
 24 rounding the petitioner's residence or any other premises, the order must specifically de-
 25 scribe the area.

26 (4) The State Court Administrator shall prescribe the content and form of the petition,
 27 order and related forms for use under sections 1 to 9 of this 2011 Act. The clerk of the court
 28 shall make available the forms and an instructional brochure explaining the rights set forth
 29 under sections 1 to 9 of this 2011 Act.

30 (5) If the court orders relief:

31 (a) The clerk of the court shall provide without charge the number of certified true
 32 copies of the petition and order necessary to provide the petitioner with one copy and to ef-
 33 fect service and shall have a true copy of the petition and order delivered to the county
 34 sheriff for service upon the respondent, unless the court finds that further service is un-
 35 necessary because the respondent appeared in person before the court. In addition and upon
 36 request by the petitioner, the clerk shall provide the petitioner, without charge, two exem-
 37 plified copies of the petition and order.

38 (b) The county sheriff shall serve the respondent personally unless the petitioner elects
 39 to have the respondent served personally by another party. Proof of service shall be made
 40 in accordance with section 5 of this 2011 Act. When the order does not contain the
 41 respondent's date of birth and service is effected by the sheriff, the sheriff shall verify the
 42 respondent's date of birth with the respondent and shall record that date on the order or
 43 proof of service entered into the Law Enforcement Data System under section 5 of this 2011
 44 Act.

45 (c) A filing fee, service fee or hearing fee may not be charged for proceedings seeking

1 only the relief provided under sections 1 to 9 of this 2011 Act.

2 (6) If the county sheriff:

3 (a) Determines that the order and petition are incomplete, the sheriff shall return the
4 order and petition to the clerk of the court. The clerk of the court shall notify the petitioner,
5 at the address provided by the petitioner, of the error or omission.

6 (b) After accepting the order and petition, cannot complete service within 10 days, the
7 sheriff shall notify the petitioner, at the address provided by the petitioner, that the docu-
8 ments have not been served. If the petitioner does not respond within 10 days, the sheriff
9 shall hold the order and petition for future service and file a return to the clerk of the court
10 showing that service was not completed.

11 (7)(a) Within 30 days after a restraining order is served under this section, the respond-
12 ent may request a court hearing upon any relief granted. The hearing request form shall be
13 available from the clerk of the court in the form prescribed by the State Court Administra-
14 tor.

15 (b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk
16 of the court shall notify the petitioner of the date and time of the hearing and shall supply
17 the petitioner with a copy of the respondent's request for a hearing. The petitioner shall give
18 to the clerk of the court information sufficient to allow for the notification.

19 (c) The hearing described in this subsection is not limited to the issues raised in the
20 respondent's request for hearing form. If the respondent seeks to raise an issue at the
21 hearing that was not previously raised in the request for hearing form, or if the petitioner
22 seeks relief at the hearing not granted in the original order, the other party is entitled to a
23 reasonable continuance for the purpose of preparing a response to the issue.

24 (8) If the respondent fails to request a hearing within 30 days after a restraining order
25 is served, the restraining order is confirmed by operation of law.

26 (9) Service of process or other legal documents upon the petitioner is not a violation of
27 this section if the petitioner is served as provided in ORCP 7 or 9.

28 **SECTION 4.** (1)(a) Except as provided in paragraph (b) of this subsection, if the re-
29 spondent requests a hearing pursuant to section 3 (7) of this 2011 Act, the court shall hold
30 the hearing within 21 days after the request.

31 (b) The respondent may request an earlier hearing, to be held within five days after the
32 request. The hearing request form shall be available from the clerk of the court in the form
33 prescribed by the State Court Administrator under section 3 (4) of this 2011 Act. If the re-
34 spondent requests an earlier hearing, the clerk of the court shall notify the parties of the
35 scheduled hearing date by mailing a notice of the time and place of hearing to the address
36 provided in the petition or, for the respondent, to the address provided in the request for
37 hearing, or as otherwise designated by a party.

38 (c) When the court schedules a hearing under paragraph (b) of this subsection, the re-
39 spondent may not request a hearing under section 3 (7) of this 2011 Act.

40 (2) In a hearing under subsection (1) of this section, the court may cancel or change any
41 order issued under section 3 of this 2011 Act and may assess against either party a reason-
42 able attorney fee and such costs as may be incurred in the proceeding.

43 (3)(a) If service of a notice of hearing described in subsection (1) of this section is inad-
44 equate to provide a party with sufficient notice of the hearing, the court may extend the date
45 of the hearing for up to five days so that the party may seek representation.

1 (b) If one party is represented by an attorney at a hearing described in subsection (1) of
2 this section, the court may extend the date of the hearing for up to five days at the other
3 party's request so that the other party may seek representation.

4 (4) If the court continues the order, with or without changes, at a hearing about which
5 the respondent received actual notice and the opportunity to be heard, the court shall in-
6 clude in the order a certificate in substantially the following form in a separate section im-
7 mediately above the signature of the judge:

8
9
10 **CERTIFICATE OF COMPLIANCE**
11 **WITH THE VIOLENCE**
12 **AGAINST WOMEN ACT**
13

14 **This protective order meets all full faith and credit requirements of the Violence Against**
15 **Women Act, 18 U.S.C. 2265 (1994). This court has jurisdiction over the parties and the subject**
16 **matter. The respondent was afforded notice and timely opportunity to be heard as provided**
17 **by the law of this jurisdiction. This order is valid and entitled to enforcement in this and all**
18 **other jurisdictions.**

21 (5) The court may approve a consent agreement if the court determines that the agree-
22 ment provides sufficient protections to the petitioner. The court may not approve a term in
23 a consent agreement that provides for restraint of a party to the agreement unless the other
24 party petitioned for and was granted an order under section 2 of this 2011 Act.

25 (6) An order or consent agreement made under this section may be amended at any time
26 and shall continue for a period of one year from the date of the order issued under section
27 3 of this 2011 Act.

28 (7) An undertaking may not be required in a proceeding under sections 1 to 9 of this 2011
29 Act.

30 (8) Any proceeding under sections 1 to 9 of this 2011 Act is in addition to any other
31 available civil or criminal remedies.

32 **SECTION 5. (1)(a) When a restraining order, authorized under this section or section 3**
33 **or 4 of this 2011 Act and including a security amount and an expiration date, is issued and**
34 **the person to be restrained has actual notice thereof, the clerk of the court or any other**
35 **person serving the petition and order shall deliver forthwith to a county sheriff a copy of the**
36 **petition, a true copy of the order and a true copy of the affidavit of proof of service on which**
37 **it is stated that personal service of the petition and order was served on the respondent. If**
38 **an order entered by the court recites that the respondent appeared in person before the**
39 **court, the necessity for further service of the order is waived and an accompanying proof**
40 **of service is not necessary. Upon receipt of a true copy of the order and completion of any**
41 **required service, the county sheriff shall forthwith enter the order into the Law Enforce-**
42 **ment Data System maintained by the Department of State Police and the databases of the**
43 **National Crime Information Center of the United States Department of Justice. The sheriff**
44 **shall also provide the petitioner with a true copy of the proof of service. Entry into the Law**
45 **Enforcement Data System constitutes notice to all law enforcement agencies of the existence**

1 of the order. Law enforcement agencies shall establish procedures adequate to ensure that
2 an officer at the scene of an alleged violation of the order may be informed of the existence
3 and terms of the order. The order shall be fully enforceable in any county or tribal land in
4 the state. The petitioner may elect to deliver documents personally to a county sheriff or to
5 have them delivered by another party for entry into the Law Enforcement Data System and
6 the databases of the National Crime Information Center of the United States Department
7 of Justice.

8 (b) When a restraining order has been entered into the Law Enforcement Data System
9 and the databases of the National Crime Information Center of the United States Depart-
10 ment of Justice under paragraph (a) of this subsection, a county sheriff shall cooperate with
11 a request from a law enforcement agency from any other jurisdiction to verify the existence
12 of the restraining order or to transmit a copy of the order to the requesting jurisdiction.

13 (2)(a) A restraining order shall remain in effect until the order expires or is terminated
14 by court order.

15 (b) When a restraining order has been entered under section 3 of this 2011 Act, the re-
16 straining order may not be terminated upon a motion for dismissal by the petitioner unless
17 the motion is notarized.

18 (3) In any situation where a restraining order described in subsection (1) of this section
19 is terminated before the expiration date, the clerk of the court shall deliver forthwith a true
20 copy of the termination order to the county sheriff with whom the original order was filed.
21 Upon receipt of the termination order the county sheriff shall promptly remove the original
22 order from the Law Enforcement Data System and the databases of the National Crime In-
23 formation Center of the United States Department of Justice.

24 (4) Pending a contempt hearing for an alleged violation of a restraining order issued un-
25 der sections 1 to 9 of this 2011 Act, a person arrested and taken into custody may be released
26 as provided in ORS 135.230 to 135.290. Whenever a restraining order is issued under sections
27 1 to 9 of this 2011 Act, the issuing court shall set a security amount for the violation of the
28 order.

29 **SECTION 6.** (1) A sheriff may serve a restraining order under section 3 of this 2011 Act
30 in the county in which the sheriff was elected and in any other county that is adjacent to
31 the county in which the sheriff was elected.

32 (2) A sheriff may serve and enter into the Law Enforcement Data System a facsimile of
33 a certified true copy of a restraining order under section 3 of this 2011 Act that was trans-
34 mitted to the sheriff by a trial court administrator or another sheriff using a telephonic
35 facsimile device. A copy of the facsimile must be attached to the sheriff's return of service.
36 Before transmitting a restraining order to a sheriff under this subsection, the person sending
37 the facsimile must receive confirmation by telephone from the sheriff's office that a tele-
38 phonic facsimile communication device is available and operating.

39 **SECTION 7.** The court may renew an order entered under sections 1 to 9 of this 2011 Act
40 upon a finding that a person in the petitioner's situation would reasonably fear further un-
41 lawful conduct by the respondent if the order is not renewed. A finding that the respondent
42 committed a further sex crime against the victim is not required. A court may renew an
43 order on the basis of a sworn, ex parte petition alleging facts supporting the required finding.
44 If the renewal order is granted, the provisions of sections 3 (5) to (7) and 4 (4) of this 2011
45 Act apply, except that the court may hear no issue other than the basis for renewal unless

1 requested in the hearing request form and thereafter agreed to by the petitioner. The court
 2 shall hold a hearing required under this section within 21 days after the respondent's re-
 3 quest.

4 **SECTION 8.** A petition under section 2 of this 2011 Act may be filed only in a county in
 5 which the petitioner or respondent resides. A contempt proceeding for an alleged violation
 6 of an order issued under sections 1 to 9 of this 2011 Act must be conducted by the court that
 7 issued the order, or by the circuit court for a county in which a violation of the restraining
 8 order occurs. If contempt proceedings are initiated in the circuit court for a county in which
 9 a violation of the restraining order occurs, the person initiating the contempt proceedings
 10 shall file with the court a copy of the restraining order, certified by the clerk of the court
 11 that issued the order. Upon filing of the certified copy of the restraining order, the court
 12 shall enforce the order as though that court had issued the order.

13 **SECTION 9.** (1) At any time after an order has been issued under sections 1 to 9 of this
 14 2011 Act, and after the time period set forth in section 3 (7) of this 2011 Act, a party may
 15 request that the court modify terms in the order that were entered under section 3 (1)(d)
 16 or (e) of this 2011 Act for good cause shown.

17 (2) The clerk of the court shall provide without charge the number of certified true
 18 copies of the request for modification of the order and notice of hearing necessary to effect
 19 service and, at the election of the party requesting the modification, shall have a true copy
 20 of the request and notice delivered to the county sheriff for service upon the other party.

21 (3) Service shall be in the manner provided by law for service of summons. The county
 22 sheriff shall serve the other party personally unless the party requesting the modification
 23 elects to have the other party served personally by another party.

24 (4) The provisions of section 4 (4) of this 2011 Act apply to a modification of an order
 25 under this section.

26 (5) The court may assess against either party a reasonable attorney fee and such costs
 27 as may be incurred in the proceeding.

28 **SECTION 10.** ORS 21.361 is amended to read:

29 21.361. (1) The State Court Administrator may prescribe and charge a reasonable price, covering
 30 the costs of labor and material, for any forms provided by the courts of this state. The sums so
 31 collected shall be paid over to the State Treasurer and credited to the Court Forms Revolving Fund.

32 (2) Notwithstanding subsection (1) of this section, no charge shall be made for forms made
 33 available under the provisions of ORS 107.700 to 107.735 or 124.005 to 124.040 **or sections 1 to 9**
 34 **of this 2011 Act.**

35 **SECTION 11.** ORS 36.185 is amended to read:

36 36.185. After the appearance by all parties in any civil action, except proceedings under ORS
 37 107.700 to 107.735 or 124.005 to 124.040 **or sections 1 to 9 of this 2011 Act**, a judge of any circuit
 38 court may refer a civil dispute to mediation under the terms and conditions set forth in ORS 36.185
 39 to 36.210. When a party to a case files a written objection to mediation with the court, the action
 40 shall be removed from mediation and proceed in a normal fashion. All civil disputants shall be pro-
 41 vided with written information describing the mediation process, as provided or approved by the
 42 State Court Administrator, along with information on established court mediation opportunities.
 43 Filing parties shall be provided with this information at the time of filing a civil action. Responding
 44 parties shall be provided with this information by the filing party along with the initial service of
 45 filing documents upon the responding party.

1 **SECTION 12.** ORS 659A.270 is amended to read:

2 659A.270. As used in ORS 659A.270 to 659A.285:

3 (1) “Covered employer” means an employer who employs six or more individuals in the State
4 of Oregon for each working day during each of 20 or more calendar workweeks in the year in which
5 an eligible employee takes leave to address domestic violence, sexual assault or stalking, or in the
6 year immediately preceding the year in which an eligible employee takes leave to address domestic
7 violence, sexual assault or stalking.

8 (2) “Eligible employee” means an employee who:

9 (a) Worked an average of more than 25 hours per week for a covered employer for at least 180
10 days immediately before the date the employee takes leave; and

11 (b) Is a victim of domestic violence, sexual assault or stalking or is the parent or guardian of
12 a minor child or dependent who is a victim of domestic violence, sexual assault or stalking.

13 (3) “Protective order” means an order authorized by ORS 30.866, 107.095 (1)(c), 107.700 to
14 107.735, 124.005 to 124.040 or 163.730 to 163.750 **or sections 1 to 9 of this 2011 Act** or any other
15 order that restrains an individual from contact with an eligible employee or the employee’s minor
16 child or dependent.

17 (4) “Victim of domestic violence” means:

18 (a) An individual who has been a victim of abuse, as defined in ORS 107.705; or

19 (b) Any other individual designated as a victim of domestic violence by rule adopted under ORS
20 659A.805.

21 (5) “Victim of sexual assault” means:

22 (a) An individual against whom a sexual offense has been committed as described in ORS 163.305
23 to 163.467 or 163.525; or

24 (b) Any other individual designated as a victim of sexual assault by rule adopted under ORS
25 659A.805.

26 (6) “Victim of stalking” means:

27 (a) An individual against whom stalking has been committed as described in ORS 163.732; or

28 (b) Any other individual designated as a victim of stalking by rule adopted under ORS 659A.805.

29 (7) “Victim services provider” means a prosecutor-based victim assistance program or a
30 nonprofit program offering safety planning, counseling, support or advocacy related to domestic vi-
31 olence, sexual assault or stalking.

32 **SECTION 13.** Section 2, chapter 204, Oregon Laws 2005, is amended to read:

33 **Sec. 2.** (1) In carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, the Public
34 Utility Commission shall adopt rules to prohibit the termination of local exchange residential service
35 if the termination would significantly endanger a customer, or a person in the household of the
36 customer, who is:

37 (a) At risk of domestic violence, as defined in ORS 135.230;

38 (b) At risk of unwanted sexual contact, as defined in ORS 163.305;

39 (c) A person with a disability, as defined in ORS 124.005, who is at risk of abuse, as defined in
40 ORS 124.005 (1)(a), (d) or (e);

41 (d) An elderly person, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS
42 124.005 (1)(a), (d) or (e); or

43 (e) A victim of stalking, as described in ORS 163.732.

44 (2) A customer may establish that termination of local exchange residential service would sig-
45 nificantly endanger the customer, or a person in the household of the customer, by providing a

1 telecommunications public utility with an affidavit signed by the customer stating that termination
 2 would place the customer, or a person in the household of the customer, at significant risk of do-
 3 mestic violence, as defined in ORS 135.230, or of unwanted sexual contact, as defined in ORS
 4 163.305. The customer must attach to the affidavit a copy of an order issued under ORS 30.866,
 5 107.700 to 107.735, 124.005 to 124.040 or 163.738 **or sections 1 to 9 of this 2011 Act** that restrains
 6 another person from contact with the customer, or a person in the household of the customer, or a
 7 copy of any other court order that restrains another person from contact with the customer, or a
 8 person in the household of the customer, by reason of a risk described in subsection (1) of this sec-
 9 tion or by reason of stalking.

10 (3) The commission shall require that each telecommunications public utility establish proce-
 11 dures for submitting and receiving affidavits under subsection (2) of this section.

12 (4) This section does not apply to termination of any telecommunication service other than local
 13 exchange residential service.

14 (5) A customer submitting an affidavit as provided by subsection (2) of this section is not ex-
 15 cused from paying for telecommunication service. Customers are required to enter into a reasonable
 16 payment agreement with the telecommunications public utility if an overdue balance exists. Local
 17 exchange residential service may be terminated if a customer refuses to enter into or fails to abide
 18 by the terms of a reasonable payment agreement.

19 (6) Nothing in this section prevents the termination of local exchange residential service if the
 20 telecommunications public utility providing the service does not have the technical ability to ter-
 21 minate toll telecommunication service without also terminating local exchange residential service.

22 **SECTION 14.** ORS 166.291, as amended by section 7, chapter 826, Oregon Laws 2009, is
 23 amended to read:

24 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
 25 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
 26 out in this section, shall issue the person a concealed handgun license if the person:

27 (a)(A) Is a citizen of the United States; or

28 (B) Is a legal resident alien who can document continuous residency in the county for at least
 29 six months and has declared in writing to the United States Citizenship and Immigration Services
 30 the intent to acquire citizenship status and can present proof of the written declaration to the
 31 sheriff at the time of application for the license;

32 (b) Is at least 21 years of age;

33 (c) Is a resident of the county;

34 (d) Has no outstanding warrants for arrest;

35 (e) Is not free on any form of pretrial release;

36 (f) Demonstrates competence with a handgun by any one of the following:

37 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
 38 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
 39 of the course;

40 (B) Completion of any National Rifle Association firearms safety or training course if handgun
 41 safety was a component of the course;

42 (C) Completion of any firearms safety or training course or class available to the general public
 43 offered by law enforcement, community college, or private or public institution or organization or
 44 firearms training school utilizing instructors certified by the National Rifle Association or a law
 45 enforcement agency if handgun safety was a component of the course;

1 (D) Completion of any law enforcement firearms safety or training course or class offered for
 2 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
 3 cers if handgun safety was a component of the course;

4 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
 5 ized shooting competition or military service;

6 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
 7 revoked; or

8 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
 9 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
 10 was a component of the course;

11 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
 12 of a felony;

13 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
 14 161.295, of a misdemeanor within the four years prior to the application;

15 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

16 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
 17 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

18 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
 19 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
 20 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
 21 volving violence, as defined in ORS 166.470;

22 (L) Has not been convicted of an offense involving controlled substances or participated in a
 23 court-supervised drug diversion program, except this disability does not operate to exclude a person
 24 if:

25 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
 26 a court-supervised drug diversion program under ORS 135.907; or

27 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
 28 has not been convicted of violating ORS 475.864 (3);

29 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
 30 107.700 to 107.735 or 163.738 **or sections 1 to 9 of this 2011 Act**;

31 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

32 (o) Is not required to register as a sex offender in any state.

33 (2) A person who has been granted relief under ORS 166.274 or 166.293 or section 5, chapter 826,
 34 Oregon Laws 2009, or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of
 35 this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection
 36 (1)(g) to (L) of this section.

37 (3) Before the sheriff may issue a license:

38 (a) The application must state the applicant's legal name, current address and telephone number,
 39 date and place of birth, hair and eye color and height and weight. The application must also list the
 40 applicant's residence address or addresses for the previous three years. The application must contain
 41 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
 42 section. The application may include the Social Security number of the applicant if the applicant
 43 voluntarily provides this number. The application must be signed by the applicant.

44 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
 45 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to

1 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
2 records check is necessary, the sheriff shall request the Department of State Police to conduct the
3 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
4 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
5 check and may not keep any record of the fingerprints. The Department of State Police shall report
6 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
7 Police shall also furnish the sheriff with any information about the applicant that the Department
8 of State Police may have in its possession from its central bureau of criminal identification includ-
9 ing, but not limited to, manual or computerized criminal offender information.

10 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
11 quest. The forms shall be uniform throughout the state in substantially the following form:

12 _____
13
14 APPLICATION FOR LICENSE TO CARRY
15 CONCEALED HANDGUN

16 Date _____

17 I hereby declare as follows:

18 I am a citizen of the United States or a legal resident alien who can document continuous res-
19 idency in the county for at least six months and have declared in writing to the United States Cit-
20 izenship and Immigration Services my intention to become a citizen and can present proof of the
21 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
22 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
23 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
24 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
25 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
26 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
27 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
28 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
29 volving controlled substances or completed a court-supervised drug diversion program. There are
30 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
31 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found mentally
32 ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because
33 of mental illness. If any of the previous conditions do apply to me, I have been granted relief or wish
34 to petition for relief from the disability under ORS 166.274 or 166.293 or section 5, chapter 826,
35 Oregon Laws 2009, or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a ci-
36 tation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738
37 **or sections 1 to 9 of this 2011 Act.** I have never received a dishonorable discharge from the Armed
38 Forces of the United States. I am not required to register as a sex offender in any state. I under-
39 stand I will be fingerprinted and photographed.

40
41 Legal name _____
42 Age _____ Date of birth _____
43 Place of birth _____
44 Social Security number _____

45 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-

1 thorized under ORS 166.291. It will be used only as a means of identification.)

2
3 Proof of identification (Two pieces of current identification are required, one of which must bear a
4 photograph of the applicant. The type of identification and the number on the identification are to
5 be filled in by the sheriff.):

- 6 1. _____
- 7 2. _____

8
9 Height _____ Weight _____
10 Hair color _____ Eye color _____

11
12 Current address _____

(List residence addresses for the
past three years on the back.)

13
14
15
16 City _____ County _____ Zip _____
17 Phone _____

18
19 I have read the entire text of this application, and the statements therein are correct and true.
20 (Making false statements on this application is a misdemeanor.)

21 _____
22 (Signature of Applicant)

23
24 Character references.

25 _____

26 Name	27 Address
28 Name	29 Address

30 Approved _____ Disapproved _____ by _____

31
32 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

33 Date _____ Fee Paid _____

34 License No. _____
35 _____

- 36
- 37 (5)(a) Fees for concealed handgun licenses are:
- 38 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
- 39 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
- 40 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

41 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
42 the concealed handgun license.

43 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
44 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
45 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful

1 performance of duties under those sections.

2 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
 3 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
 4 is an applicant for a concealed handgun license or is a license holder.

5 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
 6 for a resident of a contiguous state who has a compelling business interest or other legitimate
 7 demonstrated need.

8 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
 9 person:

10 (a) Has a current Oregon driver license issued to the person showing a residence address in the
 11 county;

12 (b) Is registered to vote in the county and has a memorandum card issued to the person under
 13 ORS 247.181 showing a residence address in the county;

14 (c) Has documentation showing that the person currently leases or owns real property in the
 15 county; or

16 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
 17 tax year showing a residence address in the county.

18 **SECTION 15.** ORS 166.291, as amended by sections 7 and 10, chapter 826, Oregon Laws 2009,
 19 is amended to read:

20 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
 21 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
 22 out in this section, shall issue the person a concealed handgun license if the person:

23 (a)(A) Is a citizen of the United States; or

24 (B) Is a legal resident alien who can document continuous residency in the county for at least
 25 six months and has declared in writing to the United States Citizenship and Immigration Services
 26 the intent to acquire citizenship status and can present proof of the written declaration to the
 27 sheriff at the time of application for the license;

28 (b) Is at least 21 years of age;

29 (c) Is a resident of the county;

30 (d) Has no outstanding warrants for arrest;

31 (e) Is not free on any form of pretrial release;

32 (f) Demonstrates competence with a handgun by any one of the following:

33 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
 34 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
 35 of the course;

36 (B) Completion of any National Rifle Association firearms safety or training course if handgun
 37 safety was a component of the course;

38 (C) Completion of any firearms safety or training course or class available to the general public
 39 offered by law enforcement, community college, or private or public institution or organization or
 40 firearms training school utilizing instructors certified by the National Rifle Association or a law
 41 enforcement agency if handgun safety was a component of the course;

42 (D) Completion of any law enforcement firearms safety or training course or class offered for
 43 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
 44 cers if handgun safety was a component of the course;

45 (E) Presents evidence of equivalent experience with a handgun through participation in organ-

1 ized shooting competition or military service;

2 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
3 revoked; or

4 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
5 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
6 was a component of the course;

7 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
8 of a felony;

9 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
10 161.295, of a misdemeanor within the four years prior to the application;

11 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

12 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
13 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

14 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
15 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
16 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
17 volving violence, as defined in ORS 166.470;

18 (L) Has not been convicted of an offense involving controlled substances or participated in a
19 court-supervised drug diversion program, except this disability does not operate to exclude a person
20 if:

21 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
22 a court-supervised drug diversion program under ORS 135.907; or

23 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
24 has not been convicted of violating ORS 475.864 (3);

25 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
26 107.700 to 107.735 or 163.738 **or sections 1 to 9 of this 2011 Act**;

27 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

28 (o) Is not required to register as a sex offender in any state.

29 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or
30 has had the person's record expunged under the laws of this state or equivalent laws of other ju-
31 risdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

32 (3) Before the sheriff may issue a license:

33 (a) The application must state the applicant's legal name, current address and telephone number,
34 date and place of birth, hair and eye color and height and weight. The application must also list the
35 applicant's residence address or addresses for the previous three years. The application must contain
36 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
37 section. The application may include the Social Security number of the applicant if the applicant
38 voluntarily provides this number. The application must be signed by the applicant.

39 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
40 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
41 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
42 records check is necessary, the sheriff shall request the Department of State Police to conduct the
43 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
44 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
45 check and may not keep any record of the fingerprints. The Department of State Police shall report

1 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
2 Police shall also furnish the sheriff with any information about the applicant that the Department
3 of State Police may have in its possession from its central bureau of criminal identification includ-
4 ing, but not limited to, manual or computerized criminal offender information.

5 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
6 quest. The forms shall be uniform throughout the state in substantially the following form:

7 _____
8
9 APPLICATION FOR LICENSE TO CARRY
10 CONCEALED HANDGUN

11 Date _____

12 I hereby declare as follows:

13 I am a citizen of the United States or a legal resident alien who can document continuous res-
14 idency in the county for at least six months and have declared in writing to the United States Cit-
15 izenship and Immigration Services my intention to become a citizen and can present proof of the
16 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
17 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
18 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
19 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
20 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
21 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
22 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
23 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
24 volving controlled substances or completed a court-supervised drug diversion program. There are
25 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
26 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found mentally
27 ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because
28 of mental illness. If any of the previous conditions do apply to me, I have been granted relief or wish
29 to petition for relief from the disability under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or have
30 had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order is-
31 sued under ORS 30.866, 107.700 to 107.735 or 163.738 **or sections 1 to 9 of this 2011 Act**. I have
32 never received a dishonorable discharge from the Armed Forces of the United States. I am not re-
33 quired to register as a sex offender in any state. I understand I will be fingerprinted and photo-
34 graphed.

35
36 Legal name _____
37 Age _____ Date of birth _____
38 Place of birth _____
39 Social Security number _____

40 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
41 thorized under ORS 166.291. It will be used only as a means of identification.)

42
43 Proof of identification (Two pieces of current identification are required, one of which must bear a
44 photograph of the applicant. The type of identification and the number on the identification are to
45 be filled in by the sheriff.):

1 1. _____

2 2. _____

3

4 Height _____ Weight _____

5 Hair color _____ Eye color _____

6

7 Current address _____

8

(List residence addresses for the
past three years on the back.)

9

10

11 City _____ County _____ Zip _____

12 Phone _____

13

14 I have read the entire text of this application, and the statements therein are correct and true.
15 (Making false statements on this application is a misdemeanor.)

16

(Signature of Applicant)

17

18

19 Character references.

20

Name Address

22

Name Address

24

25 Approved _____ Disapproved _____ by _____

26

27 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

28

29 Date _____ Fee Paid _____

30

31

32 (5)(a) Fees for concealed handgun licenses are:

33

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- (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
- (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
- (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.
- (b) The sheriff may enter into an agreement with the Department of Transportation to produce the concealed handgun license.
- (6) No civil or criminal liability shall attach to the sheriff or any authorized representative engaged in the receipt and review of, or an investigation connected with, any application for, or in the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful performance of duties under those sections.
- (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff shall enter the applicant's name into the Law Enforcement Data System indicating that the person is an applicant for a concealed handgun license or is a license holder.
- (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section

1 for a resident of a contiguous state who has a compelling business interest or other legitimate
2 demonstrated need.

3 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
4 person:

5 (a) Has a current Oregon driver license issued to the person showing a residence address in the
6 county;

7 (b) Is registered to vote in the county and has a memorandum card issued to the person under
8 ORS 247.181 showing a residence address in the county;

9 (c) Has documentation showing that the person currently leases or owns real property in the
10 county; or

11 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
12 tax year showing a residence address in the county.

13 **SECTION 16. Sections 1 to 9 of this 2011 Act and the amendments to ORS 21.361, 36.185,**
14 **166.291 and 659A.270 and section 2, chapter 204, Oregon Laws 2005, by sections 10 to 15 of this**
15 **2011 Act apply to conduct occurring on or after the date that is 180 days before the effective**
16 **date of this 2011 Act.**

17 _____